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Remarks:

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Not referred to DOC. Waiver applies.

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Executive Secretary  
*6/15/82*  
 Date

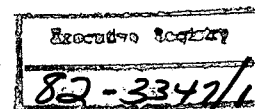
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MEMORANDUM

THE WHITE HOUSE  
WASHINGTON

June 14, 1982



DDI- 4942-82

MEMORANDUM FOR MEMBERS OF THE CABINET COUNCIL ON COMMERCE AND TRADE

FROM: WENDELL GUNN  
Executive Secretary

SUBJECT: Agenda for Meeting of June 16, 1982  
8:45 a.m. in the Roosevelt Room

Attached are reading materials for this week's CCCT meeting. The items to be covered and estimated discussion times are as follows:

1) U.S. - Canada Bilateral Economic Relations (30 minutes) (see attached paper from USTR)


~~2) TRIS Indemnification (30 minutes) (see attached paper from Michael Uhlmann, OPD)~~  
*Not attached.*

Not referred to DOC. Waiver applies.

OFFICE OF THE UNITED STATES  
TRADE REPRESENTATIVE  
EXECUTIVE OFFICE OF THE PRESIDENT  
WASHINGTON  
20506

May 27, 1982

MEMORANDUM TO: Members of the President's Cabinet Council  
on Commerce and Trade

FROM: Ambassador William E. Brock 

SUBJECT: Update on U.S.-Canada Bilateral Investment  
Issues

Background

At the November 3 meeting of the Cabinet Council on Commerce and Trade (CCCT), it was decided to continue our intensified efforts to resolve our differences with Canada over its National Energy Program (NEP) and the operation of its Foreign Investment Review Agency (FIRA) through bilateral consultations. It was also decided by the CCCT that should these senior-level consultations fail to resolve our differences, we would pursue our concerns in appropriate international fora. Toward that end, on January 5, we requested formal consultations with Canada under the auspices of the General Agreement on Tariffs and Trade (GATT) concerning certain practices associated with FIRA.

Recent Administration Efforts

Formal GATT consultations were held with Canada on February 17. At that time, the U.S. delegation explained in detail the inconsistency of certain of FIRA's practices, including requirements for local sourcing of goods and export requirements, with basic GATT principles. The Canadian Cabinet carefully reviewed our presentation, and in late March informed us that they were not prepared to modify their policies. They indicated, instead, that they were prepared to allow the dispute settlement mechanisms of the GATT to address the issue.

On March 31, the GATT Council approved a U.S. request for the establishment of a panel to consider our complaint. The exact terms of reference for the panel's consideration, and the composition of the panel, are to be worked out between the U.S. and Canadian delegations in Geneva.

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The matter has been complicated by recent actions by the Canadian Government in the implementation of the NEP. Certain agencies administering the provisions of the NEP are applying pressure on foreign firms to source goods and services from Canadian firms, a violation of the GATT. The Canadian Government has been officially notified of our concerns by the American Embassy in Ottawa and by various senior-level Administration officials, including Deputy USTR David Macdonald and Assistant Secretary of State Robert Hormats.

The Canadians have informed us that they are merely attempting to ensure that Canadian firms are given a full and fair opportunity to compete for business in Canada. While we have received confidential reports from U.S. firms of overt Canadian Government pressure to "buy Canadian", we lack hard evidence which could be used to pursue a GATT case. For the time being, we will continue to monitor the situation and notify U.S. firms of their rights. If instances of governmental pressure on U.S. firms to buy Canadian continues despite assurances to the contrary from Canadian officials, we will have to consider expanding the scope of our GATT complaint.

On those aspects of the NEP which are not trade-related, we are continuing to raise our concerns in the Organization for Economic Cooperation and Development (OECD) and in senior-level bilateral consultations. However, the Canadians appear adamant in pursuing their energy and investment goals at all costs. One major piece of NEP-implementing legislation, Bill C-48, went into effect in early March. This legislation contains the provision which arrogates to the crown retroactively a 25 percent share of all production leases on federal lands. The other integral part of the NEP package, the Energy Security Act, is now before Parliament, and the Canadians do not appear inclined to modify those provisions which trouble us the most. Nevertheless, we will continue to raise our concerns bilaterally, as well as multilaterally, where appropriate.

The Canadian economy, including the energy sector, is presently in serious disarray. The Canadian Government may be forced to modify certain of its policies of concern to us out of economic necessity. Therefore, it would appear most advantageous for us to limit our efforts to change Canadian practices to private discussions, and to avoid public rhetoric which could be seized upon by the Canadian nationalists.